

BEFORE THE
ILLINOIS COMMERCE COMMISSION

RICHARD KIRK) DOCKET NO.
) 07-0624
-vs-)
)
CENTRAL ILLINOIS LIGHT COMPANY)
d/b/a AmerenCILCO)
)
Complaint as to billing and/or)
charges.)

Springfield, Illinois
Tuesday, April 29, 2008

Met, pursuant to notice, at 9:00 a.m.

BEFORE :

MR. LARRY JONES, Administrative Law Judge

APPEARANCES :

MR. MATTHEW R. TOMC
Corporate Counsel
One Ameren Plaza
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Mail Code 1310
St. Louis, Missouri 63166.
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(Appearing on behalf of
Respondent via teleconference)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
Ln. #084-002710

1 APPEARANCES: (Continued)

2 MR. RICHARD KIRK
3 117 North Hampton Way
4 Morton, Illinois 61550

5 (Appearing pro se via
6 teleconference)

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WITNESS

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None .

EXHIBITS

MARKED

ADMITTED

None .

1 As the parties are aware, at the
2 previous status hearing in this matter there was some
3 scheduling put into place. That included the filing
4 of an answer by the Respondent AmerenCILCO. E-Docket
5 indicates that that answer was in fact filed. Did
6 you receive a copy of that, Mr. Kirk?

7 MR. KIRK: Yes, I did.

8 JUDGE JONES: Thank you. After that there was
9 built into the schedule a date by which Mr. Kirk
10 would have an opportunity to submit any informational
11 requests from him to AmerenCILCO seeking information.

12 MR. KIRK: They sent me all I needed.

13 JUDGE JONES: Thank you. I think the next date
14 after that was a date of April 22. That was
15 specified as a date applicable to Mr. Kirk. If he
16 had some information that he would like to use to
17 supplement what's in his petition, then that April 22
18 was the filing date for that. You did not make any
19 filing of that nature, is that correct, Mr. Kirk?

20 MR. KIRK: No, I think what I gave you is --
21 what Ameren sent me is sufficient.

22 JUDGE JONES: Thank you. I think that brings

1 us pretty much up-to-date. Mr. Tomc, is Ameren
2 wanting an opportunity to send any informational
3 requests to Mr. Kirk or no?

4 MR. TOMC: Your Honor, Ameren would like to
5 send -- reserve the right to send data requests after
6 seeing Mr. Kirk's testimony. But based on the
7 information that we have now, we don't have any
8 information that we need to seek at this time.

9 JUDGE JONES: Well, as I understand what
10 Mr. Kirk is saying, his filing that he is relying on
11 consists of the assertions contained in his
12 complaint, whatever assertions were contained in or
13 attached to his complaint, as comprising his
14 statement or testimony in the case. By let's check
15 with him on that. Is that your plan, Mr. Kirk, or do
16 you want an opportunity to file some additional
17 statements or testimonies? That's just a question.

18 MR. KIRK: Well, the testimony states that
19 Ameren mailed my statement to the wrong address, sent
20 it to me. Had they mailed it to the correct address,
21 we would not be having this conversation today.

22 JUDGE JONES: I guess what I am trying to

1 clarify is whether you are wanting to file or
2 intending to file or submit in some fashion any
3 additional testimonies or statements. I am not
4 suggesting whether you should or shouldn't, but the
5 question has come up about whether you will be
6 submitting any such filings. And so that's what I am
7 trying to follow up on. So is it your statement this
8 morning that you are basically relying on what you
9 have already filed?

10 MR. KIRK: I thought I would be able to make a
11 statement today.

12 JUDGE JONES: Well, today is actually a status
13 hearing. It has been billed as a status hearing for
14 scheduling and other purposes, so we really have not
15 constructed the schedule in a way that calls for
16 testimony to be taken today.

17 Can you put that in -- if you have
18 something else to offer, can you put that in kind of
19 a statement form?

20 MR. KIRK: Yes.

21 JUDGE JONES: And circulate that? Would that
22 work for you?

1 MR. KIRK: I could do that.

2 JUDGE JONES: Whatever you were wanting to say,
3 to add to what you have already put into play through
4 your petition, we could give you a date to do that.
5 Whether we call that prepared testimony or an
6 additional statement from you, however that's
7 characterized, we can give you a date for that
8 purpose and you can have that opportunity.

9 MR. KIRK: That's good enough. I am not
10 familiar with the procedure here, so.

11 JUDGE JONES: Sure. I think that's also what
12 Mr. Kirk was getting at a minute ago. Is that more
13 or less the case, Mr. Kirk -- I am sorry, Mr. Tomc?

14 MR. TOMC: Yes, Your Honor. AmerenCILCO would
15 be flexible with regard to the format that Mr. Kirk
16 wants to use to put forth any additional argument or
17 evidence.

18 And, Your Honor, we would just ask
19 that, you know, for purposes of discovery that we be
20 given, you know, a period of time after that
21 information is filed to then follow up with any
22 questions we may have.

1 JUDGE JONES: So, Mr. Kirk, we will put a date
2 in the schedule to give you that opportunity. What
3 form that takes we will kind of leave up to you.
4 Some people like to use question and answer format,
5 but you don't have to put it into that format if you
6 would rather just set it out in sort of a narrative
7 form. So whether you want to use the question and
8 answer style or instead use some sort of narrative
9 statement, we will leave that to your discretion as
10 to how you do that. We will put a date in there for
11 that purpose so we can build off that date for some
12 further scheduling.

13 So I would ask you at this time,
14 Mr. Kirk, how long would you like to have to put that
15 together and submit that?

16 MR. KIRK: I can do that --

17 JUDGE JONES: We didn't catch your answer
18 there.

19 MR. KIRK: Seven days. It won't take long.

20 JUDGE JONES: Will that give you enough time?

21 MR. KIRK: Yes.

22 JUDGE JONES: All right. So we will make that

1 seven days for that submission. Let's put a date on
2 that. It would look like May 6, I believe. Does
3 that date work for you?

4 MR. KIRK: That works fine.

5 JUDGE JONES: Will you be able to circulate
6 that by e-mail?

7 MR. KIRK: Yes.

8 JUDGE JONES: And in terms of whether that is
9 in verified form or not or notarized, we will leave
10 that up to you. If that is put into the evidentiary
11 record at some point, then it would be put in as in
12 some sworn manner. But that does not have to occur
13 at this stage of the process. So if it is simpler
14 for you to simply submit your statement, additional
15 statement, without it being verified or notarized at
16 this stage of the process, that's up to you. At some
17 point in the process if it is going to go into the
18 evidentiary record, then we will deal with the
19 process of getting that offered in some sworn or
20 notarized manner.

21 Do you have any questions about that
22 piece of it?

1 MR. KIRK: No.

2 JUDGE JONES: All right. So May 6 will be the
3 date for that purpose.

4 All right. Mr. Tomc, you said you
5 might want to send Mr. Kirk some data requests or
6 informational requests after you see his submission
7 on May 6. How long do you need to do that?

8 MR. TOMC: Your Honor, ten days would be
9 sufficient.

10 JUDGE JONES: All right. Mr. Kirk, if Mr. Tomc
11 sends you something in ten days in the nature of a
12 request for some information from you, how long would
13 you like to have to respond to that?

14 MR. TOMC: Ten days would be fine.

15 JUDGE JONES: All right. Let's see what that
16 looks like on the calendar. Any data requests or
17 informational requests from Mr. Tomc to Mr. Kirk
18 would be sent electronically on or before May 16.
19 Then we will make May 27 the date for Mr. Kirk to
20 send responses to Mr. Tomc to those requests.

21 Can you do that, send those by e-mail
22 to him, Mr. Kirk?

1 MR. KIRK: Yes, I need -- do I send it to
2 dmossough@ameren.com (sp)?

3 JUDGE JONES: Where do you want that sent to,
4 Mr. Tomc?

5 MR. TOMC: Mr. Kirk, you can send it to Daniel
6 Mossough. That's my assistant. That would work.

7 JUDGE JONES: Any other clarifications on that?

8 MR. KIRK: No.

9 JUDGE JONES: Okay, thank you. Then we will
10 look at a date for the submission by Respondent
11 AmerenCILCO of its testimony and exhibits in the case
12 next. Mr. Tomc, any suggestions in that regard?

13 MR. TOMC: Yes, Your Honor. I would request
14 two weeks after the May 27 date which would be June
15 10.

16 JUDGE JONES: Are you proposing that is the
17 date then on which you would circulate CILCO's
18 prepared testimony and exhibits to Mr. Kirk and also
19 file them with the Commission?

20 MR. TOMC: Yes, Your Honor.

21 JUDGE JONES: And what was that date again?

22 MR. TOMC: June 10.

1 JUDGE JONES: Thank you. Is that acceptable to
2 you, Mr. Kirk?

3 MR. KIRK: Yes, Your Honor.

4 JUDGE JONES: So CILCO will make the filing on
5 that date and will e-mail a copy of that to Mr. Kirk.

6 In terms of what would happen after
7 that, there are a couple of ways to go there. Let's
8 talk about that a little bit. I guess one option
9 would be that Mr. Kirk would have an opportunity to
10 submit some sort of rebuttal statement. Do you want
11 an opportunity for that built into the schedule,
12 Mr. Kirk?

13 MR. KIRK: Yes, sir, please.

14 JUDGE JONES: And as noted the CILCO,
15 AmerenCILCO, testimony filing will be June 10. How
16 long would you like after that to submit your
17 rebuttal filing or statement?

18 I didn't quite catch what you said
19 there.

20 MR. KIRK: Ten days should be fine, sir.

21 JUDGE JONES: Thank you. Mr. Tomc, is that
22 acceptable to you?

1 MR. TOMC: Yes, Your Honor.

2 JUDGE JONES: I should probably back up a
3 little bit here. Mr. Kirk, you had an opportunity in
4 the earlier portion of the schedule to submit any
5 informational requests or data requests to
6 AmerenCILCO after receiving their answer and
7 attachments. They are going to be making a testimony
8 filing on June 10. Do you want an opportunity to
9 file any more informational requests of them?

10 MR. KIRK: That's not necessary, Your Honor.

11 JUDGE JONES: All right. So Mr. Kirk's
12 rebuttal date is June 20.

13 In terms of what would happen after
14 that, I suppose one option would be to set an
15 evidentiary hearing and another option would be to
16 set a status hearing date. I should make one other
17 comment while we are at it. Of course, this is a
18 formal case. It is a formal complaint, and we are
19 putting scheduling into place to procedurally advance
20 this formal complaint.

21 That being said, that does not ever
22 prevent or prohibit the parties from continuing any

1 discussions they may be having in an attempt to
2 resolve issues. Whether that is resolving some of
3 the issues or all of the issues is something that the
4 parties always have the right to continue to try to
5 do with each other. That's not to say your party is
6 bound to have settlement discussions or attempt to
7 settle anything during the course of a pending case.
8 But just because the case is pending does not
9 prohibit those efforts from occurring. So to the
10 extent that the parties are wanting to engage in
11 those efforts, you are not prevented from doing so
12 just because there is a schedule in place in this
13 case.

14 Some cases get settled and some do
15 not. Some get settled early, some get settled late
16 in the case and some do not get settled at all. So
17 settlement is always something you can continue to
18 try to do during the process.

19 All right. So with respect to events
20 to be scheduled after the June 20 rebuttal filing
21 date, what's the parties' preference there, for an
22 evidentiary hearing or another status hearing like

1 this one? I think we have some flexibility as to how
2 we do that. We try to accommodate the parties as
3 best we can. So if you have any suggestions to make
4 one way or the other, feel free.

5 MR. TOMC: Your Honor, I on behalf of
6 AmerenCILCO I can state that I would not have an
7 objection to going ahead and setting an evidentiary
8 date. And to the extent additional time was needed
9 for one reason or another, we could file a motion to
10 extend that date if we needed to.

11 JUDGE JONES: So that would be the date on
12 which to hold an actual evidentiary hearing; that's
13 what you are speaking about?

14 MR. TOMC: Yes, Your Honor.

15 JUDGE JONES: Thank you, Mr. Tomc. Mr. Kirk,
16 is that acceptable to you?

17 MR. KIRK: Yes, Your Honor, that's fine.

18 JUDGE JONES: All right. So Mr. Kirk will have
19 the date of June 20 for that rebuttal statement
20 filing if he makes one. So the hearing date to be
21 set would be at some point after that.

22 Any suggestions from the parties on a

1 date or time frame that would work for you?

2 MR. TOMC: Your Honor, I would suggest the week
3 of June 30 through July 4 as being a good time frame
4 for AmerenCILCO. To make a specific request or
5 suggestion I would suggest Wednesday morning of
6 Wednesday, July 2.

7 JUDGE JONES: Mr. Kirk, Mr. Tomc has thrown out
8 some possible dates there. Do those work -- dates
9 work for you?

10 MR. KIRK: That week we may be out of the area.

11 JUDGE JONES: How about the following week?

12 MR. KIRK: The following week I know we will be
13 here.

14 JUDGE JONES: Does the following work any good
15 on your end, Mr. Tomc?

16 MR. TOMC: Yes, Your Honor, it would. And I do
17 note now that the July 4 holiday would be a difficult
18 drive as well. So the week of July 7 would work for
19 AmerenCILCO.

20 MR. KIRK: Monday is a hectic date for me.
21 Tuesday, Wednesday of the week is always fine. I can
22 do it on either the 8th or the 9th.

1 JUDGE JONES: All right. The 8th or 9th, how
2 do those look for you, Mr. Tomc?

3 MR. TOMC: Your Honor, the dates of July 8 and
4 July 9 both are acceptable and my schedule indicates
5 that I have all day available on both of those dates.

6 JUDGE JONES: Let me check something in the
7 meantime here. I know that that is -- there is a
8 series of dates in that week that are under
9 consideration in another matter. I think to be on
10 the safe side maybe we better look at the following
11 week. I don't want to have to give the parties a
12 date and then have to switch it on you after you have
13 put one together then.

14 How about July 17? Is that any good?

15 MR. KIRK: That's fine.

16 JUDGE JONES: How about you, Mr. Tomc? July
17 17?

18 MR. TOMC: Your Honor, July 17 would be
19 acceptable to me. In the morning would probably be
20 the best.

21 MR. KIRK: I concur.

22 JUDGE JONES: So July 17. All right. Ten

1 a.m.? Does 10:00 a.m. work?

2 MR. KIRK: Ten a.m.

3 MR. TOMC: Yes, Your Honor, 10:00 a.m. works

4 for AmerenCILCO.

5 JUDGE JONES: All right. July 17, 10:00 a.m.

6 All right. Thank you, gentlemen, for

7 working through those stages of the case and the

8 dates. I think we have what we need for that purpose

9 at this time. Maybe to simply things a little bit at

10 least in some respects I can send out some sort of

11 notice within a couple of days that contains this

12 information. I mean, it is in the record now and

13 will show up in the transcript, but I can, as I did

14 the last time, send some sort of notice out that at

15 least hits the main points of this schedule that you

16 have put together. There is quite a few dates and

17 twists, quite a few dates in there and they are for

18 different things. So if that will be of some benefit

19 to you, Mr. Kirk, we can do that. Would you like

20 something like that sent out so you will have it in

21 front of you?

22 MR. KIRK: Yes, please.

1 JUDGE JONES: All right. We can do that.

2 MR. TOMC: Thank you, Your Honor.

3 JUDGE JONES: I think that might cover the
4 bases for today, but let's make sure. Is there
5 anything else then for today's purposes before we
6 conclude this status hearing? All right. Let the
7 record show there is not.

8 All right. That is -- that's it then
9 for today's status hearing purposes. Our thanks to
10 Mr. Tomc for setting up the call-in number that we
11 all used. And also our thanks to the parties for
12 working through the scheduling that was put together
13 this morning.

14 At this time then let the record show
15 today's status hearing is concluded, and in
16 accordance with the above, with several intervening
17 dates in there, of course, this matter is continued
18 to a hearing date of July 17 at 10:00 a.m.

19 (Whereupon the hearing in this
20 matter was continued until July
21 17, 2008, at 10:00 a.m. in
22 Springfield, Illinois.)